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OFFICE OF PETITIONS

In re Application of :
Riddiford, et al. : DECISION ON PETITION
Application No. 10/081,122 :
Filed: February 22, 2002 :
Dkt. No.: DP-305565 (7500/87) :

This decision is in response to the "PETITION UNDER 37 CFR 1.183," filed February 16, 2005, requesting waiver or suspension of the rules to allow consideration of the response submitted herewith.

Petitioners argue that the Office was untimely in processing and considering the response submitted June 10, 2004 to the Final Office Action mailed June 2, 2004, and request that the response submitted herewith be deemed timely submitted.

The final Office action was mailed June 2, 2004. A response was filed June 10, 2004. An Advisory Action was mailed January 13, 2005 indicating that the June 10, 2004 response was not approved. Accordingly, the instant application became abandoned September 3, 2004 for failure to timely submit a proper reply to the final Office action mailed June 2, 2004. This decision precedes Notice of Abandonment.

In no event will the statutory period for reply expire later than six months from the mailing date of the final rejection. See, MPEP 706.07(f) and 37 CFR 1.134. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. See, 37 CFR 1.116(b). Moreover, the maximum period allowed by statute for reply to the Office action is six months. See, 35 USC 133.

In an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the

statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. *See*, 37 CFR 1.183.

A timely and proper reply to the final Office action is, by statute, required within six months, and, thus, this requirement is not subject to waiver or suspension under 37 CFR 1.183.

Accordingly, the petition under 1.183 is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

Petitioner is advised to promptly seek revival of the instant application in accordance with 37 CFR 1.137. The filing of a petition under 37 CFR 1.137 cannot be intentionally delayed and therefore must be filed promptly.

Further correspondence with respect to this matter should be addressed as follows:

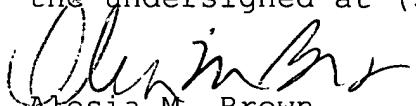
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By hand: U.S. Patent and Trademark Office
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Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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